

1 AMENDMENT TO SENATE BILL 96

2 AMENDMENT NO. _____. Amend Senate Bill 96 on page 1, line
3 1, by replacing "transportation." with "driving offenses.";
4 and

5 on page 8, below line 25, by inserting the following:

6 "Section 10. The Unified Code of Corrections is amended
7 by changing Section 5-4-1 as follows:

8 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)
9 Sec. 5-4-1. Sentencing Hearing.

10 (a) Except when the death penalty is sought under
11 hearing procedures otherwise specified, after a determination
12 of guilt, a hearing shall be held to impose the sentence.
13 However, prior to the imposition of sentence on an individual
14 being sentenced for an offense based upon a charge for a
15 violation of Section 11-501 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance, the individual must
17 undergo a professional evaluation to determine if an alcohol
18 or other drug abuse problem exists and the extent of such a
19 problem. Programs conducting these evaluations shall be
20 licensed by the Department of Human Services. However, if
21 the individual is not a resident of Illinois, the court may,

1 in its discretion, accept an evaluation from a program in the
2 state of such individual's residence. The court may in its
3 sentencing order approve an eligible defendant for placement
4 in a Department of Corrections impact incarceration program
5 as provided in Section 5-8-1.1 or 5-8-1.3. At the hearing
6 the court shall:

7 (1) consider the evidence, if any, received upon
8 the trial;

9 (2) consider any presentence reports;

10 (3) consider the financial impact of incarceration
11 based on the financial impact statement filed with the
12 clerk of the court by the Department of Corrections;

13 (4) consider evidence and information offered by
14 the parties in aggravation and mitigation;

15 (5) hear arguments as to sentencing alternatives;

16 (6) afford the defendant the opportunity to make a
17 statement in his own behalf;

18 (7) afford the victim of a violent crime or a
19 violation of Section 11-501 of the Illinois Vehicle Code,
20 or a similar provision of a local ordinance, or a
21 qualified individual affected by a violation of Section
22 405, 405.1, 405.2, or 407 of the Illinois Controlled
23 Substances Act, committed by the defendant the
24 opportunity to make a statement concerning the impact on
25 the victim and to offer evidence in aggravation or
26 mitigation; provided that the statement and evidence
27 offered in aggravation or mitigation must first be
28 prepared in writing in conjunction with the State's
29 Attorney before it may be presented orally at the
30 hearing. Any sworn testimony offered by the victim is
31 subject to the defendant's right to cross-examine. All
32 statements and evidence offered under this paragraph (7)
33 shall become part of the record of the court. For the
34 purpose of this paragraph (7), "qualified individual"

1 means any person who (i) lived or worked within the
2 territorial jurisdiction where the offense took place
3 when the offense took place; and (ii) is familiar with
4 various public places within the territorial jurisdiction
5 where the offense took place when the offense took place.
6 For the purposes of this paragraph (7), "qualified
7 individual" includes any peace officer, or any member of
8 any duly organized State, county, or municipal peace unit
9 assigned to the territorial jurisdiction where the
10 offense took place when the offense took place; and

11 (8) in cases of reckless homicide afford the
12 victim's spouse, guardians, parents or other immediate
13 family members an opportunity to make oral statements.

14 (b) All sentences shall be imposed by the judge based
15 upon his independent assessment of the elements specified
16 above and any agreement as to sentence reached by the
17 parties. The judge who presided at the trial or the judge
18 who accepted the plea of guilty shall impose the sentence
19 unless he is no longer sitting as a judge in that court.
20 Where the judge does not impose sentence at the same time on
21 all defendants who are convicted as a result of being
22 involved in the same offense, the defendant or the State's
23 Attorney may advise the sentencing court of the disposition
24 of any other defendants who have been sentenced.

25 (c) In imposing a sentence for a violent crime or for an
26 offense of operating or being in physical control of a
27 vehicle while under the influence of alcohol, any other drug
28 or any combination thereof, or a similar provision of a local
29 ordinance, when such offense resulted in the personal injury
30 to someone other than the defendant, the trial judge shall
31 specify on the record the particular evidence, information,
32 factors in mitigation and aggravation or other reasons that
33 led to his sentencing determination. The full verbatim record
34 of the sentencing hearing shall be filed with the clerk of

1 the court and shall be a public record.

2 (c-1) In imposing a sentence for the offense of
3 aggravated kidnapping for ransom, home invasion, armed
4 robbery, aggravated vehicular hijacking, aggravated discharge
5 of a firearm, or armed violence with a category I weapon or
6 category II weapon, the trial judge shall make a finding as
7 to whether the conduct leading to conviction for the offense
8 resulted in great bodily harm to a victim, and shall enter
9 that finding and the basis for that finding in the record.

10 (c-2) If the defendant is sentenced to prison, other
11 than when a sentence of natural life imprisonment or a
12 sentence of death is imposed, at the time the sentence is
13 imposed the judge shall state on the record in open court the
14 approximate period of time the defendant will serve in
15 custody according to the then current statutory rules and
16 regulations for early release found in Section 3-6-3 and
17 other related provisions of this Code. This statement is
18 intended solely to inform the public, has no legal effect on
19 the defendant's actual release, and may not be relied on by
20 the defendant on appeal.

21 The judge's statement, to be given after pronouncing the
22 sentence, other than when the sentence is imposed for one of
23 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
24 shall include the following:

25 "The purpose of this statement is to inform the public of
26 the actual period of time this defendant is likely to spend
27 in prison as a result of this sentence. The actual period of
28 prison time served is determined by the statutes of Illinois
29 as applied to this sentence by the Illinois Department of
30 Corrections and the Illinois Prisoner Review Board. In this
31 case, assuming the defendant receives all of his or her good
32 conduct credit, the period of estimated actual custody is ...
33 years and ... months, less up to 180 days additional good
34 conduct credit for meritorious service. If the defendant,

1 because of his or her own misconduct or failure to comply
2 with the institutional regulations, does not receive those
3 credits, the actual time served in prison will be longer.
4 The defendant may also receive an additional one-half day
5 good conduct credit for each day of participation in
6 vocational, industry, substance abuse, and educational
7 programs as provided for by Illinois statute."

8 When the sentence is imposed for one of the offenses
9 enumerated in paragraph (a)(3) of Section 3-6-3, other than
10 when the sentence is imposed for one of the offenses
11 enumerated in paragraph (a)(2) of Section 3-6-3 committed on
12 or after June 19, 1998, and other than when the sentence is
13 imposed for reckless homicide as defined in subsection (e) of
14 Section 9-3 of the Criminal Code of 1961 if the offense was
15 committed on or after January 1, 1999, and other than when
16 the sentence is imposed for aggravated arson if the offense
17 was committed on or after the effective date of this
18 amendatory Act of the 92nd General Assembly, the judge's
19 statement, to be given after pronouncing the sentence, shall
20 include the following:

21 "The purpose of this statement is to inform the public of
22 the actual period of time this defendant is likely to spend
23 in prison as a result of this sentence. The actual period of
24 prison time served is determined by the statutes of Illinois
25 as applied to this sentence by the Illinois Department of
26 Corrections and the Illinois Prisoner Review Board. In this
27 case, assuming the defendant receives all of his or her good
28 conduct credit, the period of estimated actual custody is ...
29 years and ... months, less up to 90 days additional good
30 conduct credit for meritorious service. If the defendant,
31 because of his or her own misconduct or failure to comply
32 with the institutional regulations, does not receive those
33 credits, the actual time served in prison will be longer.
34 The defendant may also receive an additional one-half day

1 good conduct credit for each day of participation in
2 vocational, industry, substance abuse, and educational
3 programs as provided for by Illinois statute."

4 When the sentence is imposed for one of the offenses
5 enumerated in paragraph (a)(2) of Section 3-6-3, other than
6 first degree murder, and the offense was committed on or
7 after June 19, 1998, and when the sentence is imposed for
8 reckless homicide as defined in subsection (e) of Section 9-3
9 of the Criminal Code of 1961 if the offense was committed on
10 or after January 1, 1999, and when the sentence is imposed
11 for aggravated driving under the influence of alcohol, other
12 drug or drugs, or intoxicating compound or compounds, or any
13 combination thereof as defined in subparagraph (F) of
14 paragraph (1) of subsection (d) of Section 11-501 of the
15 Illinois Vehicle Code, and when the sentence is imposed for
16 aggravated arson if the offense was committed on or after the
17 effective date of this amendatory Act of the 92nd General
18 Assembly, the judge's statement, to be given after
19 pronouncing the sentence, shall include the following:

20 "The purpose of this statement is to inform the public of
21 the actual period of time this defendant is likely to spend
22 in prison as a result of this sentence. The actual period of
23 prison time served is determined by the statutes of Illinois
24 as applied to this sentence by the Illinois Department of
25 Corrections and the Illinois Prisoner Review Board. In this
26 case, the defendant is entitled to no more than 4 1/2 days of
27 good conduct credit for each month of his or her sentence of
28 imprisonment. Therefore, this defendant will serve at least
29 85% of his or her sentence. Assuming the defendant receives
30 4 1/2 days credit for each month of his or her sentence, the
31 period of estimated actual custody is ... years and ...
32 months. If the defendant, because of his or her own
33 misconduct or failure to comply with the institutional
34 regulations receives lesser credit, the actual time served in

1 prison will be longer."

2 When a sentence of imprisonment is imposed for first
3 degree murder and the offense was committed on or after June
4 19, 1998, the judge's statement, to be given after
5 pronouncing the sentence, shall include the following:

6 "The purpose of this statement is to inform the public of
7 the actual period of time this defendant is likely to spend
8 in prison as a result of this sentence. The actual period of
9 prison time served is determined by the statutes of Illinois
10 as applied to this sentence by the Illinois Department of
11 Corrections and the Illinois Prisoner Review Board. In this
12 case, the defendant is not entitled to good conduct credit.
13 Therefore, this defendant will serve 100% of his or her
14 sentence."

15 (d) When the defendant is committed to the Department of
16 Corrections, the State's Attorney shall and counsel for the
17 defendant may file a statement with the clerk of the court to
18 be transmitted to the department, agency or institution to
19 which the defendant is committed to furnish such department,
20 agency or institution with the facts and circumstances of the
21 offense for which the person was committed together with all
22 other factual information accessible to them in regard to the
23 person prior to his commitment relative to his habits,
24 associates, disposition and reputation and any other facts
25 and circumstances which may aid such department, agency or
26 institution during its custody of such person. The clerk
27 shall within 10 days after receiving any such statements
28 transmit a copy to such department, agency or institution and
29 a copy to the other party, provided, however, that this shall
30 not be cause for delay in conveying the person to the
31 department, agency or institution to which he has been
32 committed.

33 (e) The clerk of the court shall transmit to the
34 department, agency or institution, if any, to which the

1 defendant is committed, the following:

2 (1) the sentence imposed;

3 (2) any statement by the court of the basis for
4 imposing the sentence;

5 (3) any presentence reports;

6 (4) the number of days, if any, which the defendant
7 has been in custody and for which he is entitled to
8 credit against the sentence, which information shall be
9 provided to the clerk by the sheriff;

10 (4.1) any finding of great bodily harm made by the
11 court with respect to an offense enumerated in subsection
12 (c-1);

13 (5) all statements filed under subsection (d) of
14 this Section;

15 (6) any medical or mental health records or
16 summaries of the defendant;

17 (7) the municipality where the arrest of the
18 offender or the commission of the offense has occurred,
19 where such municipality has a population of more than
20 25,000 persons;

21 (8) all statements made and evidence offered under
22 paragraph (7) of subsection (a) of this Section; and

23 (9) all additional matters which the court directs
24 the clerk to transmit.

25 (Source: P.A. 91-357, eff. 7-29-99; 91-899, eff. 1-1-01;
26 92-176, eff. 7-27-01; 92-806, eff. 1-1-03; revised
27 9-18-02.)."